

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

Emergency Rules

■ LIVESTOCK DISPOSAL

The DEPARTMENT OF AGRICULTURE adopted emergency amendments to the Part titled Illinois Dead Animal Disposal Act (8 IAC 90; 44 Ill Reg 8483) effective 5/7/20 for a maximum of 150 days, allowing livestock producers to dispose more readily of cattle, poultry or swine that have had to be slaughtered due to the decreased capacity of meatpacking plants during the COVID-19 pandemic. Livestock owners, caretakers and animal collection services may dispose of dead livestock, poultry, or fish by transporting them to a licensed landfill or a composting site approved by DOA. Limitations on the number/amount of animal carcasses that can be buried at a specific site are suspended and only a "sufficient layer of uniform soil cover" is required (existing rule requires at least 6 inches of compacted soil cover).

COVID-19 ACTIONS

Numerous Executive Orders and emergency rules have been issued in response to the COVID-19 pandemic. Executive Orders of the Governor concerning this pandemic can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

Carcasses may be composted without a roof over, or an impervious, weight-bearing foundation beneath, the entire composting area, and multiple composting bins are not required. Disease vectors, dust, and litter must be controlled and animal carcasses must not be visible from public roads or habitable structures. Those affected by this

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Proposed Rulemakings

■ MINIMUM WAGE LAW

The DEPARTMENT OF LABOR proposed an amendment to the Part titled Minimum Wage Law (56 IAC 210; 44 Ill Reg 8472) addressing situations in which one individual is jointly employed by two or more closely associated employers. The rulemaking lists factors to be considered in determining whether a joint employment relationship exists between or among other entities that are associated with a person's main employer. If this is the case, the employee's work in a given period for all the related entities counts as one employment subject to the Minimum Wage Law and all joint employers become liable for any violations of that law. (If the entities are found to be completely independent of one another, the employee is considered to be working separate jobs and each

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.
PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.
PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.
■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.
QUESTIONS/COMMENTS: Submit mail, email or phone calls to the agency personnel listed below each summary.
RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

Emergency Rules

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emergency rule include livestock and poultry producers and animal disposal/rendering services.

Questions/requests for copies: Albert A. Coll, DOA, State Fairgrounds, PO Box 19281, Springfield IL 62794-9281, 217/782-4051, fax 217/785-4505.

■ LONG TERM CARE

The DEPARTMENT OF PUBLIC HEALTH adopted emergency amendments to the Parts titled Assisted Living and Shared Housing Establishment Code (77 IAC 295; 44 Ill Reg 8515), Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 44 Ill Reg 8521), Sheltered Care Facilities Code (77 IAC 330; 44 Ill Reg 8536), Illinois Veterans' Homes Code (77 IAC 340; 44 Ill Reg 8548), Intermediate Care for the Developmentally Disabled Facilities Code (77 IAC 350; 44 Ill Reg 8555), Specialized Mental Health Rehabilitation Facilities Code (77 IAC 380; 44 Ill Reg 8568), and Medically Complex for the Developmentally Disabled Facilities Code (77 IAC 390; 44 Ill Reg 8573), all effective 5/5/20 for a maximum of 150 days. All 7 emergency rules suspend, for the duration of the Gubernatorial Disaster Proclamations related to the COVID-19 public health emergency, routine inspections and surveys and require DPH to perform on-site investigations in a manner that minimizes impact on facility activities while insuring the health and safety of residents and staff. (On-site visits to investigate

alleged resident abuse/neglect or conditions threatening resident health and safety will continue.) The Part 295, 300, 330, 350, 380 and 390 emergency amendments suspend automatic expiration of probationary licenses, annual on-site visits, and routine on-site surveys. Emergency amendments to Parts 300, 350 and 390 suspend involuntary discharge or transfer of residents for non-payment or late payment. An emergency amendment to Part 300 suspends the 120-day deadline after initial employment for Certified Nursing Assistants to complete a Basic Nursing Assistant Training Program (BNATP) and submit documentation needed for inclusion in the Nurse Aide Registry. (CNAs are still obligated to perform these actions; only the 120-day deadline is suspended.) Instead, individuals working as CNAs shall demonstrate their competency in the principles, techniques, and procedures of the BNATP under observation and documentation by a registered professional nurse. Emergency amendments to Parts 350 and 390 suspend similar training requirements for direct support persons (DSPs) and habilitation aides working with developmentally disabled residents and substitute a demonstration of competency observed and documented by a qualified mental retardation/developmental disabilities professional. Long-term care facilities and aide training programs are affected by these emergency rules.

Questions/requests for copies of the 7 DPH emergency rules: Erin Conley, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov

■ LIBRARIES

The SECRETARY OF STATE adopted an emergency amendment to the Part titled Illinois Library System Act (23 IAC 3030; 44 Ill Reg 8585) effective 5/7/20 for a maximum of 150 days. The emergency rule suspends resource sharing membership requirements (including interlibrary loans, reciprocal borrowing, and reciprocal access) for System members for the duration of the Gubernatorial Disaster Proclamations and for 45 days after these proclamations expire. Library districts are affected by this emergency rule.

Questions/requests for copies: Joseph Natale, SOS-Illinois State Library, Gwendolyn Brooks Bldg., Springfield IL 62701-1796, 217/558-4185, jnatale@ilsos.net

■ PUBLIC WORKS PROJECTS

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted a new Part by emergency rulemaking titled Illinois Works Jobs Program Act (14 IAC 680; 44 Ill Reg 8502) effective 5/8/20 for a maximum of 150 days. An identical proposed amendment appears in this week's *Illinois Register* at 44 Ill

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Proposed Rulemakings

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employer may disregard work performed for the other employers.) Factors to be considered include: whether the employee's work benefits the alleged joint employer or is an integral part of the alleged joint employer's business; whether the alleged joint employer has direct or indirect control or influence over the employee's terms or conditions of employment (e.g., work schedule, work quality); whether the alleged joint employer owns or leases the premises where the work is performed or provides tools, equipment or materials used by the employee; and whether the alleged joint employer controls the main employer's operations via contractual obligations, ownership interest, joint management, or economic dependence. Small businesses and non-profit entities with joint employment relationships may be affected by this rulemaking.

Questions/requests for copies/ comments through 7/6/20: Jason Keller, DOL, 900 S. Spring St., Springfield IL 62704, 217/782-1706, jason.keller@illinois.gov

STATE OFFICES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed amendments to the Part titled Acquisition, Management and Disposal of Real Property (44 IAC 5000; 44 Ill Reg 8454) updating space limitations for State offices and facilities undergoing upgrades, renovations or new construction. An appendix lists square footage guidelines for various types of office facilities, including private offices, open interior work stations with cubicles, reception areas, conference rooms, breakrooms/kitchenettes, and storage areas. Agency implementation of space standards shall be done in

collaboration with CMS and will be based on agency needs, which may require variations in the amount of space assigned.

Questions/requests for copies/ comments through 7/6/20: Sean Coombe, CMS, 720 Stratton Bldg., Springfield IL 62706, 217/5 5 7 - 3 7 6 1 , sean.coombe@illinois.gov

Adopted Rule

DHS GRANTS

The DEPARTMENT OF HUMAN SERVICES adopted a new Part titled General Grantmaking (DHS) (44 IAC 7040; 43 Ill Reg 11812), effective 5/6/20, incorporating by reference (as required under the Grant Accountability and Transparency Act) federal grant rules at 2 CFR 200 with specified exceptions. Since 1st Notice, DHS has added a more detailed list of the applicable federal grant rules along with definitions of key terms.

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

Emergency Rules

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Reg 8470. The emergency and proposed rules implement the Illinois Works Apprenticeship Initiative that is scheduled to begin on 7/1/20. Under this initiative, contractors, subcontractors and grantees undertaking State-funded public works projects with a total cost of \$500,000 or more must have apprentices perform at least 10% of the actual or estimated labor hours in each prevailing wage classification. Affected contractors may apply for a waiver

from DCEO if this goal cannot be met and DCEO may hold public hearings on these requests. Small businesses and non-profits engaged in public works projects may be affected by this emergency rule.

Questions/requests for copies/ comments on the proposed rulemaking through 7/6/20: Jolene Clarke, DCEO, 500 E. Monroe St., Springfield IL 62701, 217/557-1820 or 217/524-3701, jolene.clarke@illinois.gov

JCAR Meeting Action

At its 5/20/20 meeting, the Joint Committee on Administrative Rules took the following actions:

SUSPENSION

JCAR objected to and suspended the Secretary of State's emergency amendments to emergency rules titled Business Corporation Act (14 IAC 150; 44 Ill Reg 7944), General Not For Profit Corporations (14 IAC 160; 44 Ill Reg 7951), Uniform Partnership Act of 1997 (14 IAC 166; 44 Ill Reg 7956), Uniform Limited Partnership Act of 2001 (14 IAC 171; 44 Ill Reg 7961) and Limited Liability Company Act (14 IAC 178; 44 Ill Reg 7966) because the rulemakings set aside statutory timeframes in which SOS is to review, approve and effectuate official paper filings of documents by businesses. During a declared disaster, statutory requirements can be waived pursuant to Executive Order by the Governor, but not by agency rule.

RECOMMENDATION

With respect to the Illinois Environmental Protection Agency rule titled Public Participation in the Air Pollution Control Permit Program (35 IAC 252; 43 Ill Reg 7028) JCAR recommended that IEPA specify in rule the number of persons, or the standards it will use to determine that number, required to request a hearing. Currently, Sec. 252.205 (Opportunity for Public Hearing) leaves the determination of how many persons requesting a hearing constitute a "significant number" to the

IEPA Director. Sec. 1-70 of the IAPA requires any agency statements of general applicability that affect the interests of persons outside the agency to be specified in rule.

EXTENSION

JCAR and the Department of Financial and Professional Regulation agreed to extend the Second Notice for the rulemaking titled The Illinois Speech-Language Pathology and Audiology Practice Act (68 IAC 1465; 44 Ill Reg 55) an additional 45 days. This rulemaking will be considered again at the June 16 JCAR meeting.

POSTPONEMENT

JCAR and the Illinois State Police agreed to postpone action on the rulemaking titled Firearm Dealer License Certification Act (20 IAC 1232; 44 Ill Reg 2446) until the June 16 JCAR meeting. The current Second Notice period expires June 21.

OTHER

The Department of Public Health agreed to repeal an emergency amendment to Control of Communicable Diseases Code (77 IAC 690) that was filed and effective 5/15/20. JCAR did not take action on this rule. The emergency rule and its repeal will be published in subsequent issues of the *Illinois Register* and summarized in next week's Flinn Report.

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at the June 16, 2020 JCAR meeting. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

BOARD OF HIGHER EDUCATION

General Grant Programs (23 IAC 1001; 44 Ill Reg 3799) proposed 3/13/20

Illinois Corporate Work Study Program (23 IAC 1015; 44 Ill Reg 4109) proposed 3/20/20

DEPT OF CENTRAL MANAGEMENT SERVICES

Pay Plan (80 IAC 310; 44 Ill Reg 4757) proposed 3/27/20

DEPT OF EMPLOYMENT SECURITY

Claimant's Availability For Work, Ability to Work and Active Search for Work (56 IAC 2865; 44 Ill Reg 5176) proposed 3/27/20

DEPT OF INFORMATION AND TECHNOLOGY

Americans With Disabilities Act Grievance Procedure (4 IAC 1660; 44 Ill Reg 3327) proposed 3/6/20

Joint Committee on Administrative Rules

Senator Bill Cunningham, *co-chair*

Representative Tom Demmer

Senator John F. Curran

Representative Michael Halpin

Senator Kimberly Lightford

Representative Frances Ann Hurley

Senator Tony Muñoz

Representative Steven Reick

Senator Sue Rezin

Representative André Thapedi

Senator Paul Schimpf

Representative Keith Wheeler, *co-chair*

**Vicki Thomas
Executive Director**